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UNITED STATES FEDERAL COMMUNICATIONS COMMISSION

Re Applications of:)	MM DOCKET No.: 99-153
)	
READING BROADCASTING, INC.)	File No.: BRCT-940407KF
)	
For Renewal of License of)	
Station WTVE(TV), Channel 51)	
Reading, Pennsylvania)	
)	
and)	
)	
ADAMS COMMUNICATIONS)	File No.: BPCT-94063KG
CORPORATION)	
)	
For Construction Permit for a)	
New Television Station)	
Channel 51)	
Reading, Pennsylvania)	

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Courtroom TWA, Room 363
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Wednesday,
February 16, 2000

The parties met, pursuant to the notice of the
Judge, at 10:04 a.m.

BEFORE: HONORABLE RICHARD L. SIPPEL
Administrative Law Judge

APPEARANCES:

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I N D E X

Hearing Began: 10:04 a.m. Hearing Ended: 10:45 a.m.

P R O C E E D I N G S

(10:04 a.m.)

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JUDGE SIPPEL: On the record. This is a prehearing conference which was called at my order. I am going to ask counsel to identify themselves for the record, please, starting with Reading Broadcasting.

MR. HUTTON: Thomas Hutton and Dennis Southard for Reading Broadcasting.

JUDGE SIPPEL: Okay. And on behalf of Adams Communications.

MR. COLE: Harry Cole on behalf of Adams Communications Corporation.

JUDGE SIPPEL: And Enforcement Bureau.

MR. SHOOK: James Shook.

JUDGE SIPPEL: Okay. Good morning. I have got a list of things here. I am primarily concerned -- well, let me say right up front, first of all, that I have -- in my computer, I have the ruling on the two bureau, pending bureau, motions to compel with respect to interrogatories and with respect to documents. And I have granted the bureau's motion. I announce it at this point primarily for purposes of scheduling.

I know that there is already an extension on the interrogatories that were agreed to be answered until February 18th. Is that correct, Mr. Hutton?

1 MR. HUTTON: That is correct.

2 JUDGE SIPPEL: Now this is just a few more
3 interrogatories. Would you be able to answer all of them by
4 the 18th, or do you need more time on that?

5 MR. HUTTON: Well, to be honest with you, when I
6 sought the initial extension, I should have realized that I
7 am planning to be out of town tomorrow and Friday, and maybe
8 should have asked for Monday instead. If we can get until
9 Monday to answer everything, that would be helpful.

10 JUDGE SIPPEL: All right. But Monday would be the
11 -- let me count the days here now.

12 MR. HUTTON: The 21st.

13 MR. SHOOK: I think we have a holiday then.

14 MR. HUTTON: Oh, I'm sorry. The 22nd then.

15 MR. SHOOK: And that would be acceptable.

16 JUDGE SIPPEL: All right. So let me put that down
17 as the due date on the answers to the interrogatories. That
18 would be Tuesday, February 22nd. Okay. Now with respect to
19 documents, was there a partial -- was there an agreement to
20 produce parts of those documents because --

21 MR. HUTTON: We did produce --

22 JUDGE SIPPEL: You did produce some.

23 MR. HUTTON: Yes, the uncontested matters we did
24 produce.

25 JUDGE SIPPEL: Okay. Would you be able to deliver

1 the remainder by the 22nd, or do you need more time on that?

2 MR. HUTTON: To be honest with you, I don't know
3 until I have a chance to talk to the client. We can shoot
4 for that date. And if there is a problem, I'll let
5 Mr. Shook know.

6 JUDGE SIPPEL: All right. I'll tell you what I am
7 going to do. I am going to allow the two of you to
8 negotiate sometime between the 22nd of February and the 28th
9 of February, during that period of time, because I am going
10 to be out of the country. So I think you can resolve it.
11 And if not, I'll be back on the 29th. Okay. So I am going
12 to leave that. That is a -- we call that a floating date,
13 the 22nd to the 28th. But it is obviously in the interests
14 of everybody in moving the case to get them to Mr. Shook as
15 soon as you can.

16 Now that leaves -- I am trying to hit these
17 subjects in categories. So the next category of document
18 discovery would be with respect to the subpoena documents
19 from the law firm. Is that right, Mr. Cole?

20 MR. COLE: That's correct, Your Honor.

21 JUDGE SIPPEL: Can you tell us what is the status
22 on that?

23 MR. COLE: The status on that is that I spoke with
24 both -- well, I have spoken with Robin Snyder of Brownstein
25 and Snyder. And she faxed to me a total of three pages of

1 documents yesterday and advised me over the phone that that
2 was all she had. I have looked at those, and I am going to
3 go back to her this afternoon and ask her if she would just
4 confirm that in writing so my files would be complete, you
5 know, that represents everything she has in her files.

6 I have spoken with Sidley & Austin as well. And
7 because of their own schedule, they have not been able to
8 get me documents, but they have advised me over the phone
9 that they expect to do so tomorrow or the next day.

10 JUDGE SIPPEL: And do you expect to get it
11 complete?

12 MR. COLE: I have no reason to believe I won't.
13 Again, I don't know. I want to wait and see what they look
14 like.

15 JUDGE SIPPEL: Okay. That's fair enough.

16 MR. COLE: And I have received a folder of
17 documents from Reading Broadcasting, and I did have a couple
18 of questions about that, just to confirm that with
19 Mr. Hutton if I could do so. There are just a couple of
20 calls I noted that I know are there. There are documents
21 that are being withheld, or whether just there are no
22 documents.

23 JUDGE SIPPEL: These are Reading documents?

24 MR. COLE: Yes.

25 JUDGE SIPPEL: Are you in the process of talking

1 that over or --

2 MR. COLE: No. I just -- I had the chance -- the
3 documents arrived on Friday. I did not have a chance to
4 look at them over the weekend or Monday. I did review them
5 yesterday and noted a couple of questions. I have not had a
6 chance to talk to Mr. Hutton about them.

7 JUDGE SIPPEL: Okay. I don't suppose there is any
8 point in trying to talk about them here.

9 MR. COLE: We could if you want. It makes no
10 difference to me, whichever is convenient for you.

11 JUDGE SIPPEL: Well, whatever I can do to help, I
12 am here to help. If you want to try it --

13 MR. COLE: Well, there are two classes of
14 documents. First, I noticed there is nothing in anything
15 that RBI provided relating to the Dallas International
16 Broadcast Station application. I was wondering if that is
17 in fact the case, that there are no documents at all in
18 Reading's possession about that, or if there are documents
19 that haven't surfaced for one reason or another.

20 MR. HUTTON: We don't recall anything responsive,
21 but we will look. Also, I should note that when we produced
22 documents to Mr. Cole and Mr. Shook, I indicated that the
23 client was undergoing further review of their records and
24 that we would possibly do a supplementary production. I'm
25 still waiting for that to happen. But we will go back and

1 look and see if we have anything relating to the Dallas
2 application.

3 MR. COLE: I'd appreciate that. And the only --
4 the second request for documents that I noted was -- and by
5 way of explanation, they do provide a number of bills from
6 Sidley and Austin directed either to Reading Broadcasting or
7 to, I guess, 29 Palms, which was another of the permittee in
8 which Mr. Parker was involved. We are waiting for those
9 applications. They do not, however, provide any bills which
10 reflected anything about Dallas international stations from
11 either Sidley and Austin or Brownstein and Snyder, nor for
12 that matter, do they provide any Brownstein and Snyder bills
13 at all. And I again wondered if that was -- there are no
14 such bills, or those are being withheld because they are
15 nonresponsive or for some other reason.

16 MR. HUTTON: All right. We didn't have copies of
17 any bills other than what we provided to you. Again, if the
18 client turns up some in their own records, we will turn
19 those over.

20 MR. COLE: Thank you.

21 JUDGE SIPPEL: So I take it that your double check
22 review is still on, Reading's double check review is still
23 going on.

24 MR. HUTTON: That is correct.

25 JUDGE SIPPEL: All right. I don't -- then with

1 those documents coming in -- and it doesn't sound like -- it
2 doesn't appear as that we are talking about an extensive
3 period of time, at least in terms of knowing as to when --
4 what universe you are going to have and what needs to be
5 done, if any follow-up needs to be done. I guess the bottom
6 line I am trying to get at is it seems like the document
7 discovery, at least at this point, is pretty much under
8 control. I'm trying to relate that, that comment, or that
9 observation, to when a deposition schedule could be worked
10 up.

11 Has there been any thought given to that, or are
12 we still waiting for documents?

13 MR. COLE: I held off and got -- looked at the
14 documents and see where things stood, both on my end and on
15 Mr. Shook's end. But I would think that -- assuming that,
16 you know, a response from Reading even, you know, even next
17 week, that as both what -- what else may exist out there, we
18 would proceed to schedule the depositions at the convenience
19 of the witnesses and the parties any time starting, I would
20 think, March 7 -- or March 6 I guess it is, or for after
21 that. I don't want to push anybody unnecessarily. But so
22 far, the universe of documents that I have seen has not been
23 so great that it is going to require weeks and weeks of
24 review to get ready.

25 JUDGE SIPPEL: Well, why don't I do this. Why

1 don't I set down as March 6 as the date by which the
2 depositions will be scheduled, in other words, that the
3 notices go out.

4 MR. HUTTON: One procedural point, Your Honor. I
5 would assume that in this case that we don't need to adhere
6 to the 21 day rule for nonparty witnesses because they did
7 receive notices back in the fall. Is that correct?

8 JUDGE SIPPEL: I don't know if you -- I don't know
9 -- I wouldn't want to -- if there was an opposition based on
10 the 21 day rule, I wouldn't want to rely on an earlier
11 notice that was in effect cancelled.

12 MR. HUTTON: I don't think there -- I don't know
13 if there is going to be an opposition.

14 MR. COLE: Yes. As a practical matter, I mean, I
15 think you are looking at the three people who could
16 conceivably oppose. The witnesses do not oppose that when
17 they thought they had a live date back in November,
18 December --

19 JUDGE SIPPEL: Right.

20 MR. COLE: And I'm certainly not going to oppose
21 on a 21 basis, and I gather Mr. Hutton, who has raised the
22 question, isn't going to do it, which leaves, of course,
23 Mr. Shook, and we can apply peer pressure to him.

24 MR. SHOOK: I can tell you now, I won't complain.

25 JUDGE SIPPEL: All this cooperation this early in

1 the morning is scary.

2 (Laughter)

3 JUDGE SIPPEL: Well, why don't I do this. I'll
4 just set the date for March 6. All I want to do is have
5 some kind of a checklist as to what should be done when.
6 And I'll set March 6 as the date for the giving of notice.
7 And how you do it, whether you want to do it informally, by
8 letter, by formal notice, as long as I am confident that it
9 is being done, which then leads to the more difficult
10 question perhaps, and that is how long do you think
11 discovery is going to take on this issue now that we have
12 got a handle on the documents and know the number of
13 witnesses, which aren't too many. What are we talking about
14 in terms of preparation for a hearing?

15 MR. COLE: Well, my guess would be that discovery
16 is going to not take more than two weeks, assuming we can --
17 and maybe not even that long. We are talking a total of
18 three or four depositions. Is that right? Three
19 depositions -- four depositions, for Wardlow, Mr. Kravitz
20 (phonetic), Mr. Parker, and Ms. Freedman. And I don't
21 anticipate any of those are going to take more than a couple
22 of hours.

23 JUDGE SIPPEL: Anybody have any other comment on
24 that? Does anybody have any other thinking on that?

25 MR. SHOOK: I suppose the only thing that can

1 change there would be if I found people within the bureau
2 who actually remembered what was going on back then, not
3 that they would necessarily be available for depositions,
4 but there might be some additional discovery related to
5 those individuals.

6 JUDGE SIPPEL: Well, that certainly is something
7 -- if something unforeseen comes up, there may have to be
8 some adjustment. But I would like to set a hearing date on
9 this phase. And assuming that the universe of documents,
10 give or take some, of course -- substantially, it is what we
11 know it to be, and there is only going to be anywhere from,
12 what, three to five witnesses?

13 MR. COLE: That would be my best guess at this
14 point, is yes.

15 JUDGE SIPPEL: It seems to me that we could start
16 around April 4. Now I wouldn't want to go beyond the 14th,
17 but I can't -- I would think that, you know, we might be
18 able to actually finish it up by the 7th, which is the
19 Friday of that week, depending on -- depending on a lot of
20 things, I guess. But I am maybe optimistic. But does
21 anybody have a conflict with that date? Does that give
22 anybody a --

23 MR. COLE: None here, Your Honor.

24 JUDGE SIPPEL: Okay. Well, why don't we do that.
25 Let me set this down for the 4th. Now that also -- I would

1 also want to use that block of time from the 4th to the 14th
2 to do the cleanup work on the -- to do rebuttal witnesses.
3 And if we can get a final resolution on Exhibit 17 through
4 Dr. Aurandt -- am I pronouncing his name right?

5 MR. HUTTON: Aurandt.

6 JUDGE SIPPEL: Aurandt's testimony. I'm still
7 very much open on that exhibit. But I'm just not ready. I
8 really am not. I haven't seen enough on it. I don't want
9 to argue this with you, but --

10 MR. HUTTON: I don't want to argue either.

11 JUDGE SIPPEL: I know you don't. I'm trying to
12 just think in terms of a practical, you know -- you want it
13 in the record. You want it in as evidence. I'm still open
14 to it. But I have got to see more to reach that point, to
15 reach the point of making a final -- I'm not saying that his
16 testimony is going to bring it in.

17 MR. HUTTON: I understand.

18 JUDGE SIPPEL: Without his testimony, I can't even
19 get to the point as to whether or not it should be in.

20 MR. HUTTON: Well, my view on it was that all of
21 the issues which you raised in your order on that point go
22 to weight to be given to the evidence rather than to
23 admissibility. But you have ruled, and I am not going to
24 seek -- I am not going to try to argue it with you.

25 JUDGE SIPPEL: No. I understand. No. I

1 understand. But for me anyway, it has been a very difficult
2 evidentiary ruling. It is not just -- you know, most of
3 these issues can be resolved very quickly. But I am having
4 -- because -- well, for all of the reasons I have said. But
5 primarily, it is a reliability. I don't know what to do
6 with this document if I bring it in as a piece of evidence.
7 I don't know what the heck to do with it. And I don't want
8 to bring it in unless I have a good idea as to what I want
9 to do with it as far as findings go.

10 Now -- but again, the only reason I am raising
11 that right now was to see if we can work out a schedule. If
12 we started on the week of the 4th -- that is a Tuesday,
13 traditional Tuesday -- and brought in the transcripts on the
14 public witness depositions, got the rebuttal testimony out
15 of the way, did whatever you want to do further on Exhibit
16 17, then that should -- and then pick up right after that.
17 I don't think we need an admission session on the added
18 issue, just pick right up on -- I mean, there will have to,
19 obviously, an exchange of -- there has to be an exchange of
20 exhibits.

21 MR. SHOOK: Right.

22 JUDGE SIPPEL: So I have to back that up into
23 March. Now, see, that is -- you all are going to need time.
24 You are going to need a lot of time. You have to finish --
25 I might be asking too much on this. You have the exchange

1 of exhibits -- well, you actually could exchange the
2 exhibits on the third of April, and then you would have --
3 you would certainly have sufficient notice as to what
4 documents are going to be relied upon, and then pick up
5 immediately on the fourth with the catch-up items that I
6 just outlined, and then move right into the taking of
7 testimony of these three, four, five witnesses and moving
8 those documents in. So we should be able to finish it up by
9 the 14th. If not, we just have to, you know, hold it over,
10 carry it over.

11 But I'm not going to commit myself to doing
12 anything that week of the 17th. That is just because of my
13 personal schedule.

14 MR. SHOOK: That's the week before Easter, right?

15 JUDGE SIPPEL: Yes, that is the week where people
16 have -- yes. My wife teaches, and she has off that week.
17 I'm just not going to -- and as well, there are a number of
18 -- because I'm looking at the dates in that week. There is
19 a whole rash of reasons as to why that's a week that we
20 shouldn't schedule hearings on in addition to my personal
21 schedule.

22 But, obviously, what I am trying to get out here
23 is that I would like to take a good attempt at trying to get
24 the cleanup items and the added issue completed by the 14th.
25 And that means that you are going to have to exchange

1 documents no later than the third. And you have got
2 depositions to take, and you have got to be sure the
3 discovery -- that the document discovery is completed, all
4 that between now and the end of March.

5 MR. SHOOK: Are you anticipating, Your Honor, that
6 the Adams issue will be dealt with at a separate time?

7 JUDGE SIPPEL: I can't -- yes. Yes, I say that
8 because I don't have the replies. I can't really -- I am
9 going to spend a considerable amount of at least time and
10 energy on it. I'm not saying in terms of days. But I need
11 to have those -- that pleading cite completed, and I can't
12 start anything before I leave. So I can't look at that
13 until the 29th. And I wouldn't expect or ask anybody to do
14 anything further until I have.

15 So, you know, the best bet is that I could have
16 something out on March third. I mean, that would really be
17 -- that would be the best case scenario. It might be a
18 little later than that. So that's what I say. The other --
19 I cannot see putting that -- putting everything else on hold
20 while that issue gets addressed, and everything remains open
21 because if it turns out that I do go -- we do go forward on
22 that issue, then everything -- and then we stop discovery
23 for that, then everything is going to be kicked over even
24 further. And it could be that I'll either cut back on that
25 issue or somehow or other be convinced that, you know, maybe

1 we shouldn't try it. I don't know. I am open on it.

2 So I do know what we want to get done here with
3 the universe of what is doable. And I would like to do
4 that.

5 MR. HUTTON: Your Honor, before we leave the abuse
6 of process issue, I would like to make one request. I would
7 like to be able to file interrogatories to Adams on that
8 issue because there are a number of preliminary issues where
9 we need identification of people and of documents in order
10 for any further discovery to proceed. And so what I would
11 like to do is file interrogatory requests to try to identify
12 those preliminary items, and then not proceed -- we wouldn't
13 proceed with the rest of discovery until after you have
14 ruled on the scope of the issue and so on.

15 JUDGE SIPPEL: Well, I'm going to ask Mr. Cole to
16 respond, obviously. But, I mean, do you -- I don't have any
17 problem with you filing a motion or a request for
18 interrogatories as a separate pleading. But in conjunction
19 with what is due today that can be responded to, are you
20 suggesting, or are you asking, that that type of -- that
21 that discovery be undertaken and completed before I rule on
22 the appeal request? Or is it something that you need -- you
23 feel the discovery you need in the event that the issue
24 stays in the case?

25 MR. HUTTON: Well, it would be discovery filed in

1 anticipation that the issue stays in the case. And it is
2 intended just to get a little bit of a jumpstart on
3 discovery, assuming that the issue stays in the case. And
4 if we filed it next week, a response would not be due from
5 Adams until --

6 JUDGE SIPPEL: Oh, certainly.

7 MR. HUTTON: -- a couple of weeks later.

8 JUDGE SIPPEL: Mr. Cole, I don't know -- I'm not
9 asking you to agree with that. But all he is asking -- all
10 he wants to do is just file -- he is going to file a
11 pleading that is going to ask you some questions, answers to
12 questions, and your obligation to answer those or respond to
13 that pleading is going to be contingent on whether or not
14 the issue stays in the case.

15 MR. COLE: As long as there is the understanding
16 that there is no response required unless and until the
17 issue is determined to stay in the case. I have no problem
18 with that.

19 JUDGE SIPPEL: But you do get -- that's true. You
20 do get a little bit of a jump timewise because assuming that
21 I rule in your favor on the issue on March 6th, then that
22 would be the triggering date for the response to those
23 interrogatories as opposed to -- well, I mean, you could
24 file it on March 16th. You wouldn't know.

25 MR. COLE: No.

1 JUDGE SIPPEL: That's fine. I mean, I like the
2 idea anyway because it is going to give me something to
3 think about. Sometimes interrogatories are helpful, just
4 the questions are helpful.

5 MR. COLE: Well, Your Honor, you would consider
6 the interrogatories in deliberation upon the appeal request?

7 JUDGE SIPPEL: I would probably look at them.

8 MR. COLE: Is that a supplementative reply then?

9 JUDGE SIPPEL: No. I am just curious as to what
10 he is curious about. That's all. If you want to ask -- if
11 you want to make a request that I not rule until you have a
12 chance to respond to them, I would consider that. But you
13 know I am going to look at them. I am going to have the
14 responsive pleadings this afternoon, right? So if I have
15 that motion, or if I have a request for interrogatories, I
16 will get those. I have told you I can't look -- I can't
17 really act on this -- begin to act on it in a meaningful way
18 until the 29th of February. So if you find something in
19 there that is outrageous that you want to raise, that you
20 want to bring to my attention, you can do that. It doesn't
21 have to be a final pleading in opposition. But would you
22 rather me not look at them?

23 MR. COLE: Well, yes. It is one thing to present
24 to Your Honor argument which has a beginning, an end, a
25 middle, and cites authority, and makes a case presentation,

1 Your Honor. It is something else to present a series of
2 questions about which he may be curious, or which Reading
3 may be curious, which doesn't -- that allows for not cogent
4 argument but just the imagination to wander, you know, what
5 is this all about, what is this all about, the result being
6 that that could influence your thinking. And I don't want
7 to say one way or the other. It certainly could influence
8 your thinking in ways that I can't predict at this point,
9 nor could I respond to even if I were to respond.

10 JUDGE SIPPEL: All right. I'll tell you what I'll
11 do. I will instruct my legal tech not to get me that
12 pleading until I rule on the main motion. On the appeal
13 request. I see your point.

14 I'm going to set those dates then. I want to set
15 them down as firm dates. Obviously, if some glitches come
16 up in terms of discovery or something, you know, if
17 something can't be completed, I'll be -- this is a pretty
18 tight time schedule, you know. At least if everybody is in
19 agreement, I'll certainly listen carefully to that. But I'm
20 going to set these dates down as I have indicated.

21 I don't think there is -- I mean, I am not going
22 to put anything out about requests for cross-examination.
23 This issue doesn't lend itself to that kind of thing.
24 Whoever is going to call the witnesses isn't going to call
25 the witness. But on the third, there will have to be a list

1 of the witnesses, a brief description as to what they are
2 going to testify to, and the documents, list of the
3 documents and copies of the documents themselves to be
4 exchanged.

5 Well, we know what the last exhibit number is. I
6 am not going to throw these in with another just a
7 continuation. If the exhibit is going to be sponsored by
8 Adams or by the bureau, that is the way it is going to be
9 called. It will be an Adams exhibit, a bureau exhibit,
10 anything responsible for a Reading exhibit.

11 Now you would be expected, Mr. Hutton, when these
12 witnesses are put on the stand, if you have a rebuttal or
13 clarifying document, some document that you want to use with
14 respect to that witness, you would be expected to produce
15 those on the day that the witness is on the stand. I'm not
16 going to put an obligation on you to prepare -- I mean, you
17 know pretty much what these documents are going to be. I
18 don't think there are going to be any surprises.

19 MR. HUTTON: Well, I would expect doing a written
20 direct exhibit for any witness that I am going to present.

21 JUDGE SIPPEL: Right. But are these going to be
22 your witnesses?

23 MR. HUTTON: I think on Parker it would be. I
24 don't know who else I might have.

25 JUDGE SIPPEL: Well, I am going to take that -- I

1 am going to have to set the third down as an exchange date
2 for all of the parties. In other words, every party here
3 that is going to be involved in this case, being the three
4 parties to the case, is going to have to file what I just
5 said, a list of the witnesses, a short summary of their
6 proposed testimony, a list of the documents that you are
7 going to sponsor or your witnesses are going to sponsor or
8 you are going to produce, and copies of the documents.

9 Now you may have mutual interests in the same
10 documents. The documents don't have to be, you know,
11 duplicitous of exchange. I would hope that -- you know, I
12 would hope that there would be a meeting -- the attorneys
13 would meet on this the week before or something to get it
14 straightened out.

15 Okay. So that will be April 4th to April 14th.
16 We call that phase two. Now these other questions. Do I
17 want to have another conference before we move in close to
18 that date? I think I want to -- I will set a prehearing
19 conference down for March 30th. If it turns out that things
20 are progressing at a pace, and that is going to interfere
21 with your trial preparation, I can postpone, or I could
22 cancel that. But I know for planning purposes, I am going
23 to set that conference up now. And it would be essentially
24 -- just it would be a status quo, to just get -- just be
25 sure that everybody is on the same wavelength in terms of

1 how we want to proceed, there is no last minute glitches
2 with witnesses or anything.

3 I think that covers everything that I had. Does
4 anybody else have anything new?

5 MR. COLE: Your Honor, in your order concerning
6 rebuttal, you indicated that Adams would be expected to
7 present a fairly detailed written showing -- exchange
8 detailed written showing concerning his proposed rebuttal.
9 And I think your order indicated we were going to discuss
10 the dates that that showing would be exchanged today. And
11 in light of the scheduling of the second phase of the
12 hearing, I would think that an exchange on that -- I am
13 looking at my calendar. You know, the date of March 20th
14 would give everybody ample notice in time to prepare for the
15 hearing.

16 JUDGE SIPPEL: I'm sorry. I missed that. I do
17 have a recollection of that. Why don't I set that down for
18 March 20th then. We'll just call that rebuttal statement,
19 Adams rebuttal statement, to file an exchange. Thank you
20 for bringing that to my attention.

21 MR. COLE: And, Your Honor, if you have nothing
22 else, I have two minor cleanup matters from phase one, or at
23 least a progress report on phase one on our public
24 witnesses.

25 JUDGE SIPPEL: Right.

1 MR. COLE: Adams had noted five public witnesses.
2 Mr. Hutton and I joined up with Reading, and he published
3 four of them. The fifth called in with a back problem, and
4 he could not make the scheduled deposition. And Mr. Hutton
5 and I agreed to try to do him by telephone down here so we
6 don't have to go up just for one witness. And I expect to
7 call Mr. Hutton about that either today or tomorrow and try
8 to get that rescheduled in. But as of right now, it looks
9 like we are in an easy shooting distance of getting all of
10 the witnesses done in the next week or so, probably less
11 than that.

12 We secondly -- and this is again a double check
13 question. In Reading's response to our document request on
14 phase two issues, they included two documents which were
15 responsive to phase one discovery. And I would like to
16 inquire of Mr. Hutton as to whether or not there are any --
17 or he anticipates that there are any additional phase one
18 documents that are likely to surface in particular minutes
19 of the September 1991 meetings.

20 MR. HUTTON: No. We produced those additional
21 documents pursuant to the presiding officer's order, as
22 indicated in our response to you, and that is all we have.

23 JUDGE SIPPEL: What was that, a copy of the minute
24 of what meeting, November?

25 MR. COLE: We received last Friday copies of an

1 October 30, 1991, directors meeting, apparently conducted by
2 the Aurandt Group and a second set of -- which we had not
3 seen before -- and a second set of minutes of the board of
4 directors meeting held on October 30, 1991, conducted by the
5 Parker directors group, which I believe I had seen in my
6 preliminary review of the minutes in Mr. Hutton's office,
7 but which have not been provided to us in the meantime.

8 JUDGE SIPPEL: So what that seems to indicate is
9 that there were two separate directors meetings held on the
10 same day?

11 MR. COLE: That is correct.

12 JUDGE SIPPEL: One with the Aurandt slate of
13 directors, and the other with -- if I am using that term
14 correctly -- and the other with the Parker --

15 MR. COLE: That is correct. That is my
16 understanding of the document, yes.

17 JUDGE SIPPEL: Is that about it? I mean, does
18 that about describe it?

19 MR. HUTTON: Yes.

20 JUDGE SIPPEL: What are we going to do with those?
21 Well, you are going to have, certainly at least in this
22 phase two, you are going to have Mr. Parker -- I mean,
23 again, I am expecting that these -- if there is a witness in
24 town that any of these cleanup items relate to, I expect it
25 is going to get covered. I don't care if it is technically

1 in a phase one or a phase two category. Let's get the -- I
2 mean, I want this record complete. It sounds like very --
3 that is interesting.

4 I'm just curious. Why is it that those minutes
5 are just coming up at this time or just being found at this
6 time?

7 MR. HUTTON: You will recall that in the fall, you
8 had reviewed the minutes in camera.

9 JUDGE SIPPEL: I did.

10 MR. HUTTON: And you set forth certain categories
11 of minutes that had to be produced --

12 JUDGE SIPPEL: I did.

13 MR. HUTTON: -- if they related to Meridian Bank
14 or the tower site, et cetera, okay? We went through and we
15 produced all the minutes that fell within those categories.

16 JUDGE SIPPEL: I see.

17 MR. HUTTON: All right? More recently, within
18 your order, ultimately holding that there was no basis for a
19 transfer of control issue in this case, you included a
20 footnote that said that if any additional minutes of
21 meetings from September and October of 1991 have not been
22 produced, then they should be produced forthwith. And that
23 was the basis for our producing the additional minutes that
24 Mr. Cole referred to.

25 JUDGE SIPPEL: I see, I see.

1 MR. COLE: Your Honor, while I don't want to get
2 into a discussion about this, I am compelled to point out
3 that in your order dated October 26, FCC 99-M65, you said
4 there would be further production of Reading minutes that
5 relate to the acquisition by purchase or otherwise the
6 equity position of Michael Parker, directly or through
7 Partel, Inc., and there will also be production of the
8 minutes in Reading documents pertaining to -- and I'm
9 enlightening -- some financing by the Meridian Bank. Both sets
10 of minutes that arrived last Friday include references to
11 Meridian Bank and to the Partel agreement, pursuant to which
12 Mr. Parker would have acquired his interest in Reading
13 Broadcasting.

14 MR. HUTTON: I don't have them in front of me.
15 I'm not sure I agree with that characterization.

16 JUDGE SIPPEL: Well, I have got -- on page 5 of
17 that 99-MB065, under the further ordered categories, it is
18 further ordered that the following minutes of the board of
19 directors meeting shall be furnished by Reading to Adams,
20 (d) board of directors meeting which discussed the Meridian
21 Bank guarantees of Partel, Inc. and the Groff and Trout
22 (phonetic) tower sites. And there was no date specified,
23 just so that would cover all meetings.

24 MR. COLE: Again, Your Honor, I didn't raise it
25 for that purpose. I just wanted to make sure that there is

1 nothing else that we can expect to see as far as Mr. Hutton
2 is aware. And I believe he has answered that there is
3 nothing else.

4 JUDGE SIPPEL: All right. Well, we'll just have
5 to deal with that when it comes around, when the time comes
6 around in April. Okay. Anything else? The public
7 witnesses for Reading, they have all been completed, too.
8 Is that correct?

9 MR. HUTTON: Yes.

10 JUDGE SIPPEL: So all we have to do is move those
11 into the record. We can move them in as evidence. How many
12 depositions, how many volumes of depositions, roughly, do
13 you have?

14 MR. HUTTON: I believe there are approximately 15,
15 and none of them are particularly lengthy.

16 JUDGE SIPPEL: You are going to have --

17 MR. COLE: Five. And same -- the depositions are
18 going to take a half an hour or 45 minutes each.

19 JUDGE SIPPEL: Well, whether we do those in the
20 beginning on the third, or whether you want to wait until
21 the end. But they are all going to have to be numbered.
22 They are going to have to be identified. They are going to
23 have to be received. I mean, it is a mechanical thing, but
24 I want to get that done in that time frame, prior to the
25 14th.

1 Again, the prehearing conference, we can decide as
2 to whether or not we are going to do that in the beginning
3 or the end. It is up to how you are going to handle the
4 witnesses. These witnesses are the most critical thing.

5 Anything else?

6 MR. COLE: Nothing here.

7 JUDGE SIPPEL: That's it?

8 MR. HUTTON: No, sir.

9 JUDGE SIPPEL: Okay. I am going to ask if you can
10 get me the -- you were going to file your response -- your
11 replies to the request for appeal this afternoon. I would
12 ask if you please get a fax copy to me when you file, you
13 know, if somebody is coming over here to file, if you would
14 fax it over to me because the transmission, you know, from
15 downstairs to upstairs is iffy. And after tomorrow, I'm out
16 of here until the 29th.

17 MR. HUTTON: Okay.

18 JUDGE SIPPEL: Mr. Shook, you are not going to
19 file --

20 MR. SHOOK: Ours are signed. I hope that one had
21 already been delivered to your legal tech. If that is not
22 the case, I'll go upstairs and inquire.

23 JUDGE SIPPEL: She may -- she usually knows more
24 than I do. At least she knows it an hour ahead of me.
25 Okay. We're in recess then until the next conference date,

1 which is March 30th. And the only action date -- well, they
2 are -- you know what the action dates are. But I will try
3 to get all of this down in an organized order by the end of
4 the day before you all forget, and we'll go from there.

5 Thank you, gentlemen.

6 (Whereupon, at 10:45 a.m., the hearing in the
7 above-entitled matter was adjourned until March 30, 2000.)

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REPORTER'S CERTIFICATE

FCC DOCKET NO.: 99-153


CASE TITLE: Reading Broadcasting, Inc.

HEARING DATE: February 16, 2000

LOCATION: Washington, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.

Date: February 16, 2000



Sharon Bellamy
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February 16, 2000



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